

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 01-0212

**Individual Income Tax
Calendar Year 1999**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

II. Tax Administration – Interest

Authority: IC 6-8.1-10-1

Taxpayer protests the interest assessed.

STATEMENT OF FACTS

Taxpayer, in a telephone conference on January 31, 2002 requested an abatement of the penalty and interest. Taxpayer's Illinois employer erroneously deducted Illinois tax instead of Indiana tax. Taxpayer filed a claim with Illinois upon preparation of his Indiana tax return. Illinois refunded the taxpayer \$1,431 on November 13, 2000. The taxpayer remitted \$1,431 to the Indiana Department of Revenue on November 30, 2000. Taxpayer filed his return on October 16, 2000. Taxpayer did not have the money to pay Indiana until he was refunded. Taxpayer, however, did not pay county option tax and should have been aware that the tax is due. The county option tax due with the return was in excess of \$600.

Taxpayer filed its return late with a tax balance due of \$2,426 on October 16, 2000. Taxpayer did not remit payment with the return. Taxpayer made no payments until after the due date of the return and states it filed an automatic extension of time to file with the Federal government and included a copy of forms 4868 and 2668 with its return. Taxpayer states he was waiting for a refund from Illinois. IC 6-8.2-6-1 (c) states in part that the person must pay at least ninety percent (90%) of the Indiana income tax that is reasonably expected to be due on the original due date by that due date, or he may be subject to the penalties imposed for failure to pay the tax.

Taxpayer did not remit at least ninety percent (90%) of the tax due by the original due date. Taxpayer also failed to pay the tax with his return and was assessed a penalty for the underpayment of estimated taxes.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer states that his employer deducted Illinois instead of Indiana taxes and he was not aware that the wrong taxes were deducted until he began filing his return.

Taxpayer remitted fifty-seven percent (57%) of the tax by the due date of the return. Taxpayer filed extensions. However, an extension to file at a later date is not an extension to make payment. Taxpayer made a payment in the amount of \$1,431 after Illinois refunded him. Even with that payment, taxpayer remitted only eighty-two percent (82%) of his tax due. Taxpayer made no attempt to pay the balance due at the time of filing his return.

FINDING

Taxpayer's protest is denied.

II. Tax Administration - Interest

DISCUSSION

Taxpayer protests the interest assessed.

The department has no authority to waive interest.

FINDING

Taxpayer's protest is denied.